BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

DOCKET NO. 2019-184-E

IN RE:	South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Dominion Energy South Carolina, Incorporated's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, and Any Other Terms or Conditions Necessary (Includes Small Power Producers as Defined in 16 United States Code 796, as Amended) – S.C. Code Ann. Section 58-41-20(A)	**ORDER GRANTING IN PART AND DENYING IN PART MOTIONS FOR REHEARING AND RECONSIDERATION**

I. Introduction

This matter comes before the Public Service Commission of South Carolina ("Commission" or "PSC") upon the timely Petitions for Rehearing or Reconsideration filed pursuant to S.C. Code Ann. §§ 1-23-380 and 58-27-2150 and S.C. Code Regs. 103-825 (A)(4). Petitions for Rehearing or Reconsideration of Order No. 2019-847 were filed jointly by Johnson Development Associates, Incorporated ("JDA") and the South Carolina Solar Business Alliance ("SBA"), and jointly by the Southern Alliance for Clean Energy and the South Carolina Coastal Conservation League ("SACE/CCL")(collectively "the Petitioners"). The Commission finds a full rehearing of the evidence is not necessary, however based upon a full review of the written arguments presented by the parties, in conjunction with a review of the record in this case, certain modifications to Order No. 2019-847 are warranted, as well as a limited rehearing. This Order sets out the Commission's changes to Order. No. 2019-847 as well as the grounds for the limited rehearing, and to the extent that any rulings within this Order conflict with Order No. 2019-341,

this Order supersedes the prior Order. Any matters not specifically addressed in this Order remain unchanged. Our holdings herein and the holdings contained in Order No. 2019-847 which remain unchanged are all supported by the entire record of this case.

Petitions

The two petitions[1] filed by JDA and SBA, and SACE/CCL raised five issues with Commission Order No. 2019-847: the interim Variable Integration Charge ("VIC") and Embedded Integration Charge ("EIC"); consideration of project-specific mitigation measures for VIC/EIC; the avoided energy rates, including consideration of a technology-neutral approach; the capacity value; and Purchase Power Agreements ("PPAs") with a term longer than ten years. Petitioners argued the avoided cost rates set by Order No. 2019-847 are among the lowest in the nation, and almost 30% lower than the avoided cost rates approved by this Commission for Duke Energy Progress and Duke Energy Carolinas. Petitioners argue the intent of Act 62 was not satisfied by Order 2019-847, particularly as it relates to South Carolina's expressed policy of encouraging development of renewable energy, the requirement to consider both the cost and benefits of renewable energy to all customers, the directive to reduce the risk placed on the using and consuming public, the requirement to treat small power producers in a nondiscriminatory manner and to place them on fair and equal footing with the state's investor owned utilities, and the requirement of transparency in utilities' avoided cost filings.

II. Applicable Law

Pursuant to S.C. Code Ann. § 58-27-2150, a party may apply to the Commission for a rehearing in respect to any matter determined in the proceeding. "The purpose of the petition for

[1] SACE/CCL's Petition for Reconsideration or Rehearing specifically addressed the interim value VIC/EIC, and joined and expressly adopted the arguments addressed by JDA and SBA in its Petition for Reconsideration and/or Limited Rehearing.

rehearing and/or reconsideration is to allow the Commission the discretion to rehear and/or reexamine the merits of issued orders, pursuant to legal or factual questions raised about those orders by parties in interest, prior to a possible appeal." *In re: South Carolina Electric & Gas Co.*, Order No. 2013-5 (Feb. 14, 2013). S.C. Code Ann. Regs. 103-825 (A)(4) provides that a Petition for Rehearing or Reconsideration shall set forth clearly and concisely the factual and legal issues forming the basis for the petition, the alleged error or errors in the Commission Order; and the statutory provision or other authority upon which the petition is based.

The legislature deems the Commission as the "expert" on policy making with regards to utility rates. *Hamm v South Carolina Public Service Comm'n,* 289.S.C. 22, 344 S.E.2d 600 (1986). Therefore, any party challenging a PSC order must establish, "(1) the PSC decision is not supported by substantial evidence and (2) the decision is clearly erroneous in light of the substantial evidence in the record." *Patton v. South Carolina Public Service Comm'n,* 280 S.C. 288, 312 S.E.2d 257(1984). Substantial evidence is relevant evidence that, considering the record as a whole, a reasonable mind would accept to support an administrative agency's action. *Kiawah Property Owners Group v. Public Service Comm'n of S.C.*, 357 S.C. 232, 593 S.E.2d 148, 151 (2004). The Commission must fully document its findings of facts and base its decision on reliable, probative, and substantial evidence on the whole record. *Id*. In Order No. 2019-847, the Commission acknowledges the significant public importance and the foundational understanding of the interrelation between three entities in the electric sector: the utility, renewable developers, and the ratepayer. *See* Order No. 2019-847 p. 3. In Order 2019-847, the Commission acknowledges that if the avoided cost rate is higher than the utility's true avoided cost, developers would be more willing to build facilities, which in return creates a higher price for ratepayers, and if the avoided cost rate is lower than the utility's true avoided cost, developers

would be less willing to build facilities; however, if the avoided cost is correctly determined, the ratepayers are protected, and the economic facilities will be built. *See* Order No. 2019-847 p. 5.

III. Factual Findings and Legal Conclusions

1. Interim VIC/EIC

The Petitioners seek reconsideration of the $2.29/MWh interim value VIC/EIC set in Order No. 2019-847, arguing this interim value was unsupported by the evidence and did not meet the statutory requirements that avoided cost rates "fully and accurately" reflect the utility's avoided costs. S. C. Code Ann. § 58-41-20 (B). Petitioners argue the Commission erroneously relied upon flawed methodology unsupported by evidence in setting the VIC/EIC. The $2.29/MWh value was derived by reducing DESC's proposed $4.14/MWh value by 36.2% to account for the estimated solar forecast uncertainty as proposed by ORS witness Horii. Order No. 2019-847 at 54. Power Advisory stated it was reluctant to recommend there be no solar integration charge, so it recommended the Commission adopt ORS witness Horii's recommended $2.29/MWh on an interim basis. Power Advisory Report pp. 23-24. However, Petitioners argue that Power Advisory was clear in its report that it did not support ORS witness Horii's calculation as it was based on Navigant's analysis which was flawed in several ways. *Id*. at 24. Petitioners assert that Power Advisory found ORS's position to be reasonable in comparison to the other solar integration charges proposed, but argued ORS's approximation fails to meet the standard set forth by Act 62. In Order No. 2019-847, the Commission found there to be an inadequate basis to determine an accurate level of additional reserves needed for integration of solar at this time, therefore the Commission lacked a sufficient evidentiary basis for approving the $2.29/MWh VIC/EIC.

SACE/CCL witness Stenclick and SBA witness Burgess both recommended that the VIC/EIC be rejected and the Commission require DESC to recalculate proposed integration charges based on a more accurate and reliable methodology. Tr. p. 629.10, ll. 20-23; Tr. p. 527.14, l. 4 to p. 527.15, l. 4. In the alternative, SBA witness Burgess recommended an integration charge of $0.96/MWh. Tr. p. 523.93, ll. 1-2. Petitioners contend this proposal addresses and adjusts for several of Navigant's methodological flaws and inappropriate inputs, compared to the $2.29/MWh interim charge which only addresses one of the numerous flaws. SBA witness Burgess's proposal included adjustments to account for: 1) operating reserve changes during solar hours only; 2) reduced volatility profile due to geographic diversity; 3) non-islanded operation; 4) use of hourly or sub-hourly solar forecast and dispatch; and 5) improvements in intra-hour dispatch, including the regionally coordinated imbalance services. Tr. p. 523.92, l. 1. Whereas ORS witness Horii's methodology only accounted for the risk of solar forecast error, which Power Advisory concluded would not produce an accurate estimate of solar integration costs. Power Advisory Report p. 24.

Upon further review, the Commission agrees with Power Advisory and Petitioners that the Navigant study is flawed and unreliable. The $2.29/MWh interim charge is not supported by the evidence and does not meet the statutory requirements of S.C. Code Ann. § 58-41-20 (B) that avoided cost rates "fully and accurately" reflect the utility's avoided costs. The Commission finds SBA witness Burgess's testimony compelling, and adopts his recommended VIC/EIC of $0.96/MWh as it more accurately adjusts the modeling done by the Company and provides a rate that more closely reflects the actual cost of integration. The Commission emphasizes that this is a temporary, interim value until a more accurate appropriate cost can be determined through an integration study. Once a more appropriate rate is determined, the VIC/EIC will be subject to a

true-up, either up or down, depending on the actual integration cost indicated by the integration study.

2. Mitigation Measures

Petitioners argued the Commission failed to consider the ability of a solar facility to mitigate the need for a VIC, citing SBA witness Burgess's testimony specifically recommending the VIC should be able to be mitigated through appropriate dispatch of solar, storage, or other QF technologies. Tr. p. 523.91, ll. 12-13. Petitioners further argued SBA witness Burgess's recommendation is consistent with what this Commission ordered in the avoided cost dockets for Duke Energy in Docket Nos. 2019-185-E and 2019-186-E.

After consideration of the arguments raised in the Petitions, we find that should a project agree to operate in a manner that materially reduces or eliminates the need for additional ancillary service requirements incurred by the utility, including but not limited to QFs with battery storage, then the project should be afforded a reduction or waiver of the VIC/EIC. The Commission agrees with the Petitioners' argument that the opportunity for solar facilities to mitigate the VIC/EIC before it is imposed represents good public policy for the implementation of a novel and complex new concept and charge. Should a disagreement arise between the developer and utility, such issue may be brought to this Commission for determination on a case-by-case basis. Therefore, we move that DESC shall file proposed mitigation protocols for Commission consideration that are consistent with the concept outlined herein. DESC shall make this filing within thirty days of the Commission Directive issued January 3, 2020, but may seek an extension if necessary.

3. Approved Energy Rates with a Technology-Neutral Approach

Petitioners argue substantial evidence was presented to show DESC's avoided energy calculations were unreliable and could not be shown to fairly and accurately reflect DESC's actual avoided energy rates as required by Act 62. Order No. 2019-847 acknowledges concerns raised by SBA and Power Advisory about DESC's lack of transparency and accepts Power Advisory's conclusion that it was not possible to conduct an analysis based on the unreliable information provided. Petitioners argue the Commission erred in rejecting SBA's request that the Commission approve a single technology-neutral rate for all QFs rather than adopting DESC's proposed solar-specific rate in addition to a separate, technology-neutral rate for all other QFs. Both SBA and Power Advisory stressed that DESC's underlying avoided cost calculation methodology was unreliable, and no evidence was presented to show that DESC's calculations accurately reflected its avoided energy costs. SBA witness Burgess proposed the Commission should adopt a technology-neutral energy rate for solar QFs, as it would send more accurate price signals to producers and would avoid potential discrimination against solar and solar plus storage QFs. Tr. p. 523.20, l. 13 to p. 523.21, l. 15. Power Advisory agreed with SBA witness Burgess that DESC's solar-specific avoided energy rates were potentially discriminatory against certain project configurations and a technology-neutral approach is more flexible and reflects actual value for customers in specific hours. Power Advisory Report pp. 37-38. Power Advisory concluded SBA witness Burgess's rates modeled on the non-solar QF contract were reasonable. *Id*.

The Commission finds there was not sufficient evidence in the record to justify a conclusion that DESC's calculations accurately reflected its avoided energy costs. Based on the testimony of SBA witness Burgess and the Power Advisory Report, the Commission adopts the PR-Standard Offer Energy Rates proposed by SBA witness Burgess in Hearing Exhibit 10. The Commission

finds these rates are more reliable and do not discriminate against small power producers as required by Act 62. Additionally, Act 62 requires transparency from the utilities in the avoided cost proceedings, and the Commission finds that DESC failed to satisfy this requirement. Going forward, the Commission expects and requires a much more detailed and transparent analysis concerning the seasonal and hourly value allocation for solar generation in the next avoided cost case.

Based on the evidence of record, the PR-Standard Offer Energy Rates proposed by SBA witness Burgess[2] are adopted as follows:

Peak Season Peak	$31.05/MWh
Peak Season Off-Peak	$27.51/MWh
Off-Peak Season Peak	$32.52/MWh
Off-Peak Season Off-Peak	$28.93/MWh

4. Capacity Value

In Order No. 2019-847, the Commission adopted the recommendation of Power Advisory of a solar capacity value that should be applied in the calculation of avoided capacity costs. *See Order No. 2019-847* at 21. DESC asserted that the need for capacity is driven by the winter season, therefore the capacity value of solar should be zero, which the Commission rejected, instead adopting DESC's alternative capacity value of 4% from DESC witness Lynch's Effective Load Carrying Capability ("ELCC") analysis. *Id.* The Petitioners argued ORS witness Horii's recommended 11.8% capacity value of solar should be adopted, citing ORS witness Horii's testimony that providing a credit less than calculated for a rate specific to solar generators would

[2] See Hearing Exhibit 10.

be unfair to small power producers and violate the nondiscriminatory guideline of S.C. Code Ann. § 58-41-20 (A) of Act 62. Tr. p. 695.35, ll. 18-20. In addition to incorrectly asserting that solar provides no capacity value in the winter, ORS witness Horii testified DESC understated the avoided capacity costs due to several incorrect assumptions: 1) an incorrect reserve margin, 2) excessive and inconsistent use of low cost capacity purchases, 3) an overly long combustion turbine ("CT") life, and 4) a mismatch between the avoided cost resource change and the assumed size of a CT unit. Tr. p. 695.33, l. 20 to p. 695.34, l. 5.

Upon further consideration, this Commission finds that ORS witness Horii's recommended 11.8% avoided capacity value is appropriate as it is reflective of the actual avoided capacity value for solar at this time. ORS witness Horii's analysis more accurately represents the status of installed and potentially avoided generation and complies with the provisions of Act 62.

5. PPA Duration

In Order No. 2019-847, this Commission held that the evidence did not support approval of a fixed price PPA with a duration longer than ten years, the evidence only supported a ten-year contract term. *See Order 2019-847* at p. 67. Any determination by the Commission to approve contracts with longer durations must be based on evidence properly entered into the record of this proceeding, therefore proposals submitted post-hearing would not be considered. *Id*. Without specific proposals from the intervenors as to how to comply with Act 62 requirements for longer PPA contract terms, this Commission stated it was unable to consider PPAs with durations longer than ten years. *Id.* This Commission cited JDA witness Chilton's statement about providing testimony at a later date regarding PPA duration, but failing to ever provide such testimony. *See Order 2019-847* at p. 66.

Petitioners argued in addition to comments by Power Advisory, evidence was entered into the record supporting PPAs with longer durations. Petitioners argued JDA witness Chilton's testimony supported PPAs with longer durations, specifically recommending the Commission direct the terms of DESC's PPAs be set between fifteen and twenty years, and some for longer than twenty years, in order to meet the high standard of encouragement of renewables as provided by Act 62. Tr. p. 459 l. 9 to p. 460 l. 4.

Act 62 requires DESC to offer PPAs with a minimum term of ten years and gives this Commission the authority to approve longer terms to promote South Carolina's policy of promoting renewable energy. S.C. Code Ann. § 58-41-20(F). Based on the argument of the Petitioners, the Commission finds that more evidence is necessary to make a proper determination regarding PPA durations exceeding ten years. Therefore, the Commission approves the request for a limited rehearing strictly on the narrow issue of PPA durations for longer than ten years, as well as related terms and conditions. The Commission will be in a better position to make a fully informed decision after hearing additional testimony on this issue. Any party that wishes to participate shall attend a status conference within two weeks of the Commission Directive issued January 3, 2020, with Commission staff in order to establish an appropriate procedural schedule.

IV. Order

IT IS THEREFORE ORDERED that based on the above stated findings and conclusions**,**

1) The Commission adopts the interim value of $0.96/MWh for the VIC/EIC, to be trued-up, either up or down, once the value is determined after the completion of an integration study;
2) DESC shall file proposed mitigation protocols for Commission consideration. Such filing shall be made within thirty days of the Directive issued on January 3, 2020;

3) The avoided energy rate calculations as detailed above are hereby approved and adopted and Ordered to be implemented by DESC;

4) The avoided capacity value of 11.8%, as detailed in the above findings, is Ordered and approved as reflecting an accurate representation of the actual avoided capacity value for solar at this time; and

5) Approve the request for a limited rehearing strictly on the narrow matter of PPA duration of longer than ten years and related terms and conditions.

In accordance with the above stated Findings and Conclusions, and based on the greater weight of the evidence, we find as a matter of law that our rulings in this matter are in accordance with the stated intent of Act 62, with S.C. Code Ann. § 58-41-20 (A), and result in a just and reasonable outcome for the Company's customers while promoting South Carolina's policy of encouraging renewable energy.

BY ORDER OF THE COMMISSION:

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Comer H. Randall, Chairman

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Florence P. Belser, Interim Vice-Chair

(SEAL)